

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

CASE NO.: 24-cv-60962-GAYLES/AUGUSTIN-BIRCH

THIN DONOVAN,

Plaintiff,

v.

FAY SERVICING LLC, et al.,

Defendants.

ORDER

THIS CAUSE comes before the Court on Defendants’ Motion to Dismiss Complaint (the “Motion”). [ECF No. 26]. The action was referred to Magistrate Judge Panayotta Augustin-Birch, pursuant to 28 U.S.C. § 636(b)(1)(B), for a ruling on all pretrial, non-dispositive matters, and for a Report and Recommendation on any dispositive matters. [ECF No. 30]. On August 23, 2024, Judge Augustin-Birch issued her report recommending that the Motion be granted (the “Report”). [ECF No. 36]. No party has objected to the Report. On September 18, 2024, Plaintiff filed an Unopposed Motion to Amend the Complaint. [ECF No. 40].¹

A district court may accept, reject, or modify a magistrate judge’s report and recommendation. 28 U.S.C. § 636(b)(1). Those portions of the report and recommendation to which objection is made are accorded *de novo* review, if those objections “pinpoint the specific findings that the party disagrees with.” *United States v. Schultz*, 565 F.3d 1353, 1360 (11th Cir. 2009); *see also* Fed. R. Civ. P. 72(b)(3). Any portions of the report and recommendation to which *no* specific

¹ On September 4, 2024, Plaintiff, without leave of Court, filed an Amended Complaint. [ECF No. 37].

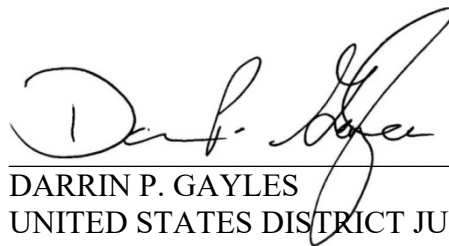
objection is made are reviewed only for clear error. *Liberty Am. Ins. Grp., Inc. v. WestPoint Underwriters, L.L.C.*, 199 F. Supp. 2d 1271, 1276 (M.D. Fla. 2001); *accord Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006).

The Court has reviewed the Report for clear error and agrees with Judge Augustin-Birch's well-reasoned analysis and findings. Accordingly, it is

ORDERED AND ADJUDGED as follows:

- (1) Judge Augustin Birch's Report and Recommendation, [ECF No. 36], is **ADOPTED in full**;
- (2) Defendants' Motion to Dismiss Complaint, [ECF No. 26], is **GRANTED**, and Plaintiff's Complaint is **DISMISSED**.
- (3) Plaintiff's Unopposed Motion to Amend the Complaint, [ECF No. 40], is granted. Defendants shall respond to Plaintiff's Amended Complaint, [ECF No. 37], on or before October 18, 2024..

DONE AND ORDERED in Chambers at Miami, Florida, this 19th day of September, 2024.


DARRIN P. GAYLES
UNITED STATES DISTRICT JUDGE